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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/202,054	12/07/1998	AUDREY GODDARD	P1154R2	2403
7590 GINGER R DREGER GENENTECH INC 1 DNA WAY SOUTH SAN FRANCISCO, CA 940804990			EXAMINER SPECTOR, LORRAINE	
			ART UNIT 1647	PAPER NUMBER
			MAIL DATE 09/30/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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SEP 30 2009

GINGER R DREGER
GENENTECH INC
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080-4990

In re Application of:	:	
Goddard et al.	:	DECISION ON PETITION TO
Serial No.: 09/202,054	:	WITHDRAW THE HOLDING
Filed: December 7, 1998	:	OF ABANDONMENT
Attorney Docket No.: P1154R2	:	

This is in response to applicants' petition under 37 CFR 1.181(a) filed on September 30, 2008, requesting withdrawal of the holding of abandonment which indicated that the application was abandoned in view of the Decision by the Board of Patent Appeals and Interferences. The delay in responding to this petition is regretted but it has only recently come to the attention of the deciding official.


A review of the file history shows that the examiner mailed a notice of abandonment on July 31, 2008 in view of the Decision by the Board of Patent Appeals and Interferences.

Applicants state that "This Notice of Abandonment is erroneous. There are allowed claims in the application, namely, claims 55-57". Specifically, applicants state that "In the Decision by the Board of Patent Appeals and Interferences rendered on May 2, 2008, the rejections to claims 28 and 48 under 35 U.S.C. 102(b) and those to claims 29, 49, 50 and 54 under 35 U.S.C. 103(a) were upheld. However, the Examiner's rejections to claims 55-57 under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph were reversed in this Decision. Therefore, there are allowed claims in the application, namely, claims 55-57. In accordance with M.P.E.P. 1214.06 at page 1200-59, Applicants' attorney was not required to file a reply to the Decision. Instead, the Examiner should have canceled claims 28-30, 48-50 and 54 and issued the application with claims 55-57". Applicants' points are well taken and persuasive.

Accordingly, applicants' petition is **GRANTED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision; namely, withdrawal of the abandonment, allowance of claims 55-57 and cancellation of claims 28-30, 48-50 and 54 as requested.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.


Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600